

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No.: _____-Civ

**ORGANIZATION OF PROFESSIONAL
AVICULTURISTS, INC.,**

Plaintiff,

v.

MARGARET EVERSON, in her official capacity as Principal Deputy Director Exercising the Authority of the Director of U.S. Fish and Wildlife Service; and **U.S. FISH AND WILDLIFE SERVICE;**

Defendants.

**COMPLAINT FOR INJUNCTIVE, DECLATORY
AND MANDAMUS RELIEF**

The plaintiff, Organization of Professional Aviculturists, Inc. (OPA), by and through undersigned counsel, files this Complaint for Declaratory and Injunctive Relief, and in support thereof, alleges as follows:

JURISDICTION AND VENUE

1. This action is brought under the Freedom of Information Act (FOIA), 5 U.S.C. §552, and the Administrative Procedure Act (APA), 5 U.S.C. §§701, *et seq.* against the defendants for violations of those statutes.
2. This Court has jurisdiction under 5 U.S.C §552(a)(4)(B) (FOIA), and 28 U.S.C. §§1331 (federal question), 1346 (U.S. government defendant), and may grant relief pursuant to 5 U.S.C. §552 (FOIA), 5 U.S.C. §§702, 706 (APA), and 28 U.S.C. §2201-02 (Declaratory Judgment Act).

3. Venue is proper in this district under 28 U.S.C. §1391(e)(1)(B) because “a substantial part of the events or omissions giving rise to the claim[s]” occurred in this district, and under 5 U.S.C. §552(a)(4) because the plaintiff resides and conducts business in this district.

PARTIES

4. Plaintiff, Organization of Professional Aviculturists, Inc. (OPA), is a national, non-profit organization that is a trade and conservation group that represents, support, and acts on behalf of professional aviculturists. A professional aviculturist is anyone whose profession includes aspects of caring, breeding, or promoting the continued existence of avian species. The OPA represents many of the most well-regarded aviculturists in the United States.

- a. The OPA is incorporated in Florida, with its principal place of business in Lakeland, Florida. OPA’s business is regularly conducted in Lakeland, Florida, Miami, Florida, and via teleconference with board members located in Florida, California, Oklahoma, Texas, and Singapore. The OPA made the FOIA requests that are the subject of this complaint through its agent, David Garcia, who is the Legal Coordinator for the OPA, and who resides in, and conducted said business in Miami, Florida.
- b. The OPA and its members are harmed by the Service’s violations of the FOIA, and the APA because such violations delay the OPA from formulating and presenting legal challenges, petitions for regulatory action and rulemaking, and other policy-oriented goals on the national, local, and international level, for the OPA and its members.
- c. The OPA’s membership is made up of professional aviculturists throughout the United States, and includes international members.

5. Defendant, Margaret Everson, is the Principal Deputy Director Exercising the Authority of the Director of U.S. Fish and Wildlife Service, and as such is the officer with ultimate custody over the records that are the subject of the FOIA requests that are at issue in this complaint. As such, she is responsible for the violations of the FOIA, and APA that are alleged in this complaint.

6. Defendant, U.S. Fish and Wildlife Service, is an agency within the Department of Interior that is charged with implementing the Wild Exotic Bird Conservation Act (WBCA). The WBCA was originally passed as a temporary moratorium on the import of the most in-demand avian species into the United States. In the 26 years since the passage of the WBCA, the Service has treated the law as a *de facto* permanent moratorium. The Service is in possession of information relating to its implementation and treatment of the WBCA that the OPA seeks, and as such, it is subject to the FOIA under 5 U.S.C §§552(b)(1)-(9) for the records requests made by the OPA. The Service is the federal agency responsible for applying and implementing the federal laws and regulations that are the subject of the FOIA requests that are at issue in this complaint, and is responsible for the violations of the FOIA, and APA that are alleged in this complaint.

STATUTORY BACKGROUND

7. The FOIA's basic purpose is to facilitate government transparency. It establishes the public's right to access all federal agency records unless such records may be withheld under one of nine narrowly construed FOIA exemptions. 5 U.S.C §§552(b)(1)-(9).

8. The FOIA imposes simple, but rigorous, and strict deadlines on federal agencies when they receive a request for records under the FOIA. Specifically, an agency must determine whether to disclose responsive records and notify the requestor of its determination within

twenty business days of receiving the request, and it must make the records available “promptly,” unless it can establish that certain unusual circumstances are present or that it may lawfully withhold records, or portions thereof, from disclosure. *Id.* §§552(a)(3)(A), (a)(6). Also, within twenty business days, the agency must inform the requestor that it has a right to appeal the agency’s determination.

9. The FOIA places the burden on the agency to prove that it may withhold responsive records from a requestor. §552(a)(4)(B).

10. Congress has specified limited circumstances in which federal agencies may obtain more time to make the determination that they are required to make by §552(a)(6)(A)(i). Predictable agency workload of requests under the FOIA is not a lawful justification. §552(a)(6)(C)(i).

11. An agency may toll the twenty business-day deadline for up to ten days to seek additional information from a requestor. §552(a)(6)(A)(ii).

12. An agency may extend the twenty business-day deadline for an additional ten business days by giving a written notice to the requester that sets forth “unusual circumstances” that justify a deadline extension, and providing the date by which the agency expects to make the determination. §552(a)(6)(B).

13. However, the agency must provide the requestor “an opportunity to limit the scope of the request so that it may be processed within” twenty business days or “an opportunity to arrange with the agency an alternative time frame for processing the request or modified request.” §552(a)(6)(B)(ii).

14. The FOIA requires each agency to make “reasonable efforts to search for records” in a manner that is reasonably calculated to locate all records that are responsive to the FOIA request. §§552(a)(3)(C)-(D).

15. The FOIA does not allow for the assessment of fees in a case of the agency failing to comply with the statutory time limits. §552(a)(4)(A)(viii)(I).

16. The FOIA requires federal agencies to expeditiously disclose requested records, and mandates a policy of broad disclosure of government records. Any inquiry under the FOIA brings with it a strong presumption in favor of disclosure.

17. The U.S. district courts have jurisdiction “to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.” §552(a)(4)(B).

18. Alternatively, an agency’s responses to a FOIA request is subject to judicial review under the APA, which confers the right of judicial review on any person who is adversely affected by agency action. 5 U.S.C. §702. District courts are authorized to compel agency action that is unlawfully withheld or unreasonably delayed. §706(1). District courts must set aside any agency action that is found to be “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.” §706(2)(A).

FACTUAL ALLEGATIONS

19. On October 15, 2018, the OPA submitted six FOIA requests via the Department of the Interior (DOI) online FOIA requests form which is the centralized processing for all of the FOIA requests made to the DOI’s sub-agencies, including the Service:

- a. The first request, hereinafter, #1—Approved Species List, requested records as follows: “The OPA is requesting all information related to FWS’s obligations to

issue regulations under the Wild Bird Conservation Act. Particularly, we are requesting information relating to the agencies failure to include additional species on the approved list for captive-bred species.” Appx., Exh. A.

- b. The second request, hereinafter, #2—CITES I Consortiums, requested records as follows: “1) The OPA is also requesting all information, relating to the approval of permits for consortium/cooperative breeding agreements. 1a) This includes but is not limited to all information, relating to the approval of permits of consortium/cooperative breeding agreements of CITES appendix 1 listed species.” Appx., Exh. A.
- c. The third request, hereinafter, #3—Personal Pets, requested records as follows: “The OPA is requesting all information, relating to the approval of permits for personal pets.” Appx., Exh. A.
- d. The fourth request, hereinafter, #4—Internal Policy for Import/Export, requested records as follows: “The OPA requests from FWS all internal documents, memoranda, policy manuals, guidance, training manuals, etc. relating to the approval of permits for import or export of exotic avian species into or out of the United States.” Appx., Exh. A.
- e. The fifth request, hereinafter, #5—CITES/WBCA, requested records as follows: “The OPA requests from FWS all documents relating to its interpretation of its obligations under CITES and how those obligations relate to the agencies ' obligations under the WBCA.” Appx., Exh. A.

- f. The sixth request, hereinafter, #6—Service/WBCA, requested records as follows: “The OPA requests from FWS all documents relating to its interpretation of its obligations under WBCA.” Appx., Exh. A.

20. On the same day, October 15, 2018, the DOI, via an automated response, e-mailed a confirmation receipt for the six FOIA requests described in paragraph 19, which included a copy of the complete text of the request. Appx., Exh. A.

21. On October 17, 2018, the Service sent six e-mails, with regard to the requests described in paragraph 19, stating that: “The United States Fish and Wildlife Service (FWS) Headquarters FOIA Office received your request dated October 15, 2018. We have forwarded your request to our Division of Management Authority (DMA) for processing. You will receive a formal acknowledgement shortly; which will include DMA contact information in case you have any questions or concerns regarding this FOIA request.” Appx., Exh. B (Request #1); Exh. C (Request #2); Exh. D (Request #3); Exh. E (Request #4); Exh. F (Request #5); Exh. G (Request #6).

22. All of the October 17, 2018, e-mails from the Service were from the fwhq_foia@fws.gov address, and copied Brenda Tapia, brenda_tapia@fws.gov, and Mary Cogliano, mary_cogliano@fws.gov.

23. On October 18, 2018, the OPA, submitted another three FOIA requests via the Department of the Interior (“DOI”) online FOIA requests form:

- a. The seventh request, hereinafter, #7—Blue Fronted Amazon, requested records as follows: “The OPA request all information relating to the attempt by the Argentinian CITES authority to petition the USFWS to allow for sustainable import of blue front amazon.” Appx., Exh. H.

- b. The eighth request, hereinafter, #8—4909 WBCA, requested records as follows:
“All information relating to FWS procedures for considering a petition under section 4909 of the Wild Bird Conservation Act.” Appx., Exh. I.
- c. The ninth request, hereinafter, #9—4905-4906 WBCA, requested records as follows: “The OPA is requesting all information and internal guidance relating to USFWS interpretation of sections 4905 and 4906 of the Wild Bird Conservation Act.” Appx., Exh. J.

24. On the same day, October 18, 2018, the DOI, via an automated response, e-mailed a confirmation receipt for the six FOIA requests described in paragraph 23, which included a copy of the complete text of the requests. Appx., Exh. H (Request #7); Exh. I (Request #8); Exh. J. (Request #9).

25. On same day, October 18, 2018, the Service sent an additional three e-mails, with regard to the requests described in paragraph 23, stating that: “The United States Fish and Wildlife Service (FWS) Headquarters FOIA Office received your request dated October 15, 2018. We have forwarded your request to our Division of Management Authority (DMA) for processing. You will receive a formal acknowledgement shortly; which will include DMA contact information in case you have any questions or concerns regarding this FOIA request.” Appx., Exh. H (Request #7); Exh. I (Request #8); Exh. J. (Request #9).

26. All of the second set of October 18, 2018, e-mails were sent from the fwhq_foia@fws.gov address, and copied Brenda Tapia, brenda_tapia@fws.gov, and Mary Cogliano, mary_cogliano@fws.gov.

27. On November 14, 2018, OPA sent an e-mail to the fwhq_foia@fws.gov address and copied Brenda Tapia, brenda_tapia@fws.gov, and Mary Cogliano, mary_cogliano@fws.gov,

stating that several of OPA's FOIA requests had been submitted over twenty working days prior, and that no formal acknowledgement letter or tracking numbers had been provided. Appx., Exh. B (Request #1).

28. On the same day, November 14, 2018, an automatic reply was received from Mary Cogliano, mary_cogliano@fws.gov, stating that she was out of the office until November 23, 2018. Appx., Exh. K.

29. On November 14, 2018, OPA also contacted the FWS FOIA Liaison Officer, Carrie Hyde-Michaels via telephone and explained the situation with regard to the collective FOIA requests.

30. During the November 14, 2018, phone call, the OPA also reminded Ms. Hyde-Michaels that the agency was outside the statutory period for a response as required by the FOIA. Ms. Hyde-Michaels responded that she was going to intend to get tracking numbers, and acknowledgement letters sent within the next couple days.

31. During the November 14, 2018, phone call, Ms. Hyde-Michaels also informed the OPA that there was no possibility that Service would be able to comply with the statutory deadline. When OPA asked why the agency would be unable to comply, Ms. Hyde-Michaels stated that the FOIA statute, and its deadlines were drafted prior to the advent of e-mail, and that the statutory deadlines were not realistic in light of the increased correspondence created by e-mail.

32. The FOIA was last amended by Congress in 2007. 5 U.S.C. §552.

33. E-mail was invented in the 1960's, and reached its modern form by the 1970's.

34. On November 16, 2018, Brenda Tapia, brenda_tapia@fws.gov, contacted the OPA and stated "Please see the FOIA request numbers for reference. We are in the process of creating the acknowledgement letters and determine which program within International Affairs

will be processing your requests.” Appx., Exh. L. The tracking numbers were assigned, in the following order, as follows:

- a. for Request #7—Blue Fronted Amazon, tracking number FWS-2019-00156;
- b. for Request #9—4905-4906 WBCA, tracking number FWS-2019-00157;
- c. for Request #8—4909 WBCA, tracking number FWS-2019-00158;
- d. for Request #2—CITES I Consortiums, tracking number FWS-2019-00159;
- e. for Request #6—Service/WBCA, tracking number FWS-2019-00160;
- f. for Request #1—Approved Species List, tracking number FWS-2019-00161;
- g. for Request #3—Personal Pets, tracking number FWS-2019-00162; and
- h. for Request #4—Internal Policy for Import/Export, tracking number FWS-2019-00163.

35. No tracking number was ever provided for Request #5—CITES/WBCA. Nor has an acknowledgement letter or other form of response ever been received by the OPA for Request #5—CITES/WBCA.

36. On November 16, 2018, twenty-two or twenty business days, respectively, had elapsed since submission of the requests.

37. As November 16, 2018, the Service had yet to provide formal acknowledgment letters, or determine which “program” within the International Affairs division was to be tasked with providing a response, in violation of the FOIA.

38. On November 16, 2018, the OPA responded to Ms. Tapia, reminding the Service that they were outside the statutory deadline for a response. Appx., Exh. L.

39. On November 16, 2018, the OPA also highlighted that the Service did not appear to have invoked the statutory ten-day extension. Appx., Exh. L.

40. On November 16, 2018, the OPA also informed Ms. Tapia that the OPA was expecting a response as soon as possible and the Service was asked for a potential response date. Appx., Exh. L.

41. On November 19, 2018, Ms. Tapia responded to the OPA's queries from November 16, 2017, stating that the OPA's requests were very broad, and providing approximate dates for completion, Appx., Exh. L, as follows:

- a. For Request #7—Blue Fronted Amazon, a minimum deadline of approximately 8 months was provided, because the information was stored off-site, and in paper form. No reason was provided for why the Service had failed give this response within the statutory period, nor why the agency needed another month to give this response.
- b. For Request #9—4905-4906 WBCA, the estimated response time was less than one month. No reason was provided for why the Service had failed to give this response, or make a determination regarding release, within the statutory period, nor why the agency needed another month to make a determination regarding release.
- c. For Request #8—4909 WBCA, the estimated response time was less than one month. No reason was provided for why the Service had failed to give this response, or make a determination regarding release, within the statutory period, nor why the agency needed another month to make a determination regarding release.
- d. For Request #2—CITES I Consortiums, Ms. Tapia informed the OPA that, as written, the request was broad, and would require at least four months to comply

with. She suggested ways to narrow the request that would reduce that time to two months.

- e. For Request #6—Service/WBCA, the estimated response time was less than one month. No reason was provided for why the Service had failed to give this response, or make a determination regarding release, within the statutory period, nor why the agency needed another month to make a determination regarding release.
- f. For Request #1—Approved Species List, the estimated response time was less than one month. No reason was provided for why the Service had failed to give this response, or make a determination regarding release, within the statutory period, nor why the agency needed another month to make a determination regarding release.
- g. For Request #3—Personal Pets, Ms. Tapia informed that the request was “extremely broad and could take years to complete.” She also suggested ways which the OPA could narrow the request so that the estimated time frame for a response would be three months.
- h. For Request, #4—Internal Policy for Import/Export, Ms. Tapia informed, “The estimated time to complete this quest is 6 months, due to the need to search in different locations to gather this information.”

42. Later the same day, on November 19, 2018, in response to Ms. Tapia’s time frames, OPA responded with two e-mails:

- a. The first e-mail was in response to requests #9—4905-4906 WBCA; #8—4909 WBCA; #6—Service/WBCA; and #1—Approved Species List, for which OPA

was told that the estimated timeframe for response was less than one month.

The OPA interpreted Ms. Tapia's e-mail to mean that these requests were not broad, and could have been completed within the statutory deadline for making a determination under §552(a)(6)(A). Thus, the OPA requested that a full determination, and production of records be made by the Service by the close of business, Wednesday, November 21, 2018, in order for there to be compliance with the FOIA statute. Appx., Exh. M.

- b. The second e-mail was in response to requests #7—Blue Fronted Amazon (8 month time-frame); #2—CITES I Consortiums (4 month time-frame); #3—Personal Pets (“years” time-frame); and #4—Internal Policy for Import/Export (6 month time-frame). OPA sought to narrow the scope of these requests, as solicited by Ms. Tapia, and attempted to arrange with the agency an alternative time frame for processing the modified request by stating that, if the Service agreed that the requests were sufficiently narrow, that a full determination and production was expected to be made by the Service by the close of business, Wednesday, November 21, 2018. §552(a)(6)(B)(ii) Appx., Exh. N.

43. Both of OPA's November 19, 2018, e-mails also asked if the Service had denied the OPA's fee waiver requests, with regard to every single request addressed in the respective e-mails, given that Ms. Tapia stated in her e-mail that several of the requests would have a cost of over \$100.

44. Given that the agency was outside the statutory deadline its cannot legally charge a fee. §552(a)(4)(A)(viii)(I).

45. Ms. Tapia never responded to either of the November 19, 2018, e-mails.

46. On November 28, 2018, the Service finally mailed six formal acknowledgment letters, for requests:

- a. #7—Blue Fronted Amazon;
- b. #9—4905-4906 WBCA;
- c. #8—4909 WBCA;
- d. #2—CITES I Consortiums;
- e. #6—Service/WBCA;
- f. #1—Approved Species List.

Appx., Exh. O. These acknowledgments were received, 31 and 27 business days from the date the requests were made, respectively.

45. No formal acknowledgement was ever received for Request #3—Personal Pets, or Request #4—Internal Policy for Import/Export. These are two of the four requests for which the OPA narrowed its request.

46. Still, no tracking number or acknowledgment letter has been provided for Request #5—CITES/WBCA.

47. None of the six acknowledgment letters invoked the ten-day extension. Appx., Exh. O.

48. Also, the acknowledgment letters for requests #7—Blue Fronted Amazon, and #2—CITES I Consortiums, did not acknowledge OPA’s narrowing of the scope of said requests. Appx., Exh. O.

49. The six acknowledgment letters also classified the OPA as an “other-use requestor” that would need to pay search fees. But, the acknowledgment letters did not explicitly deny

the OPA's fee waiver request, or provide a justification for why the OPA would need to pay for search fees. Appx., Exh. O.

50. On December 11, 2018, the Service e-mailed the OPA its response to request #9—4905-4906 WBCA; request #8—4909 WBCA; request #6—Service/WBCA; and request #1—Approved Species List. These are the four requests that Ms. Tapia estimated would take less than one month to complete. Appx., Exh. P.

51. In requests #9—4905-4906 WBCA, #8—4909 WBCA, #6—Service/WBCA, and #1—Approved Species List, the OPA requested from the Service *all* available documents.

52. The responses from the defendants are as follows:

- a. Requests #9—4905-4906 WBCA and #8—4909, yielded no responsive documents,
- b. Requests #6—Service/WBCA and #1—Approved Species List, yielded only publicly available Federal register notices.

53. The OPA is currently appealing the adequacy of the search in those requests, and if they continue to yield no non-publicly available documents, they will be consolidated with this case.

54. Under the FOIA, the appeal responses are due within twenty business days from the date of receipt of appeal, December 19, 2018 and December 20, 2018, unless the Service invokes the ten day unusual circumstances extension under §552(a)(6)(B)(i), which it has not done.

55. As of the date of this complaint, the Service has yet to respond to request five requests: Request #7—Blue Fronted Amazon; Request #2—CITES I Consortiums; Request #3—Personal Pets; Request #4—Internal Policy for Import/Export; and Request #5—CITES/WBCA.

The defendants have made no determination as to whether they will comply with those requests or with what documents.

56. The defendants have failed to adjudicate any of the OPA's fee waiver requests.

57. The defendants have failed to provide formal acknowledgement letters for Request #3—Personal Pets, and Request #4—Internal Policy for Import/Export.

58. The defendants have failed to provide a formal acknowledgement letter or tracking number for request #5—CITES/WBCA.

59. The defendants have failed to invoke the ten-day statutory extension.

60. The defendants have failed to acknowledge the OPA's attempt to narrow the scope of: Request #7—Blue Fronted Amazon; Request #2—CITES I Consortiums; Request #3—Personal Pets; and Request #4—Internal Policy for Import/Export.

COUNT I

Violation of FOIA: Failure to Comply with Statutory Deadlines

61. The allegations in paragraphs 1-60 are realleged, and incorporated herein.

62. The Service has failed to make a determination regarding OPA's FOIA requests for 41, and 39 days, respectively, and has therefore violated the deadlines under 5 U.S.C. §§552(a)(6)(A)(i), (a)(6)(E)(ii)(I).

63. Plaintiff has constructively exhausted all applicable administrative remedies as a matter of law under 5 U.S.C. §552(a)(6)(C)(i).

COUNT II

Violation of FOIA: Unlawful Withholding of Agency Records

64. The allegations in paragraphs 1-60 are realleged, and incorporated herein.

65. By failing to make a determination as required by the FOIA, the Service has unlawfully withheld the agency records requested by OPA.

66. OPA is entitled to injunctive relief with respect to the release, and disclosure of the requested records.

67. Plaintiff has constructively exhausted all applicable administrative as a matter of law remedies under 5 U.S.C. §552(a)(6)(C)(i).

COUNT III

Violation of FOIA: Failure to Provide a Tracking number

68. The allegations in paragraphs 1-60 are realleged, and incorporated herein.

69. The Service has unlawfully failed to provide a tracking number for request #5—CITES/WBCA. 5 U.S.C. §552(a)(7).

70. Plaintiff has constructively exhausted all applicable administrative remedies as a matter of law under 5 U.S.C. §552(a)(6)(C)(i).

COUNT IV

Violation of FOIA: Failure to Adjudicate Fee Waiver Requests

71. The allegations in paragraphs 1-60 are realleged, and incorporated herein.

72. The Service has unlawfully failed to adjudicate all of the OPA's fee waiver requests. 5 U.S.C. § 552 (a)(4)(A)(iii).

73. Plaintiff has constructively exhausted all applicable administrative remedies as a matter of law under 5 U.S.C. §552(a)(6)(C)(i).

COUNT V

Violation of FOIA: Failure to Meaningfully Consider Attempts to Limit Scope

74. The allegations in paragraphs 1-60 are realleged, and incorporated herein.

75. The Service has unlawfully failed to meaningfully consider the OPA's attempts to limit the scope of four of its requests, in violation of 5 U.S.C. §552(a)(4)(A)(iii), to wit: request #7—Blue Fronted Amazon (8 month time-frame); #2—CITES I Consortiums (4 month time-frame); #3—Personal Pets (“years” time-frame); and #4—Internal Policy for Import/Export (6 month time-frame).

76. Plaintiff has constructively exhausted all applicable administrative remedies as a matter of law under 5 U.S.C. §552(a)(6)(B)(ii).

COUNT VI

Violation of the APA: Unreasonable Delay and Failure to Adjudicate

77. The allegations in paragraphs 1-60 are realleged, and incorporated herein.

78. The actions of the defendants relating to the plaintiff's petition have caused unlawful, unreasonable delay in the adjudication of the OPA's request for agency records under the FOIA, and constitutes an unlawful and unreasonable failure to adjudicate the petition, in violation of the APA.

79. Pursuant to 5 U.S.C. §§702, 706(1), the plaintiff is entitled to declaratory and injunctive relief to “compel agency action unlawfully withheld or unreasonably delayed.”

PRAYER FOR RELIEF

WHEREFORE, the plaintiff prays that this Honorable Court grant the following relief:

- (a) Assume jurisdiction over this matter;
- (b) Declare that the defendants have violated the FOIA by failing to timely make a determination on all of the OPA's requests for agency records which are not currently on administrative appeal;

- (c) Compel the defendants to immediately make a determination on all of the OPA's requests for agency records which are not currently on administrative appeal;
- (d) Declare that the defendants have violated the FOIA by unlawfully withholding agency records with respect to all of the OPA's requests for agency records which are not currently on administrative appeal;
- (e) Compel the defendants to immediately release all of the requested agency records with respect to all of the OPA's requests for agency records which are not currently on administrative appeal;
- (f) Declare that the defendants have unlawfully failed to provide a tracking number for request #5—CITES/WBCA in violation of 5 U.S.C. §552(a)(7);
- (g) Compel the defendants to immediately provide a tracking number, and immediately make a determination on OPA's request #5—CITES/WBCA;
- (h) Declare that the defendants may not assess any fees against the OPA with respect to all of its records requests which not been timely adjudicated;
- (i) Alternatively, declare that the defendants have unlawfully failed to adjudicate all of the OPA's fee waiver requests in violation of 5 U.S.C. §552 (a)(4)(A)(iii);
- (j) Compel the defendants to adjudicate all of the OPA's fee waiver requests with respect to all of the OPA's FOIA requests, including the ones currently on administrative appeal;
- (k) Declare that the defendants have unlawfully failed to meaningfully consider the OPA's attempts to limit the scope of four of its requests, in violation of 5 U.S.C. §552(a)(4)(A)(iii), to wit: request #7—Blue Fronted Amazon (8 month time-frame);

- #2—CITES I Consortiums (4 month time-frame); #3—Personal Pets (“years” time-frame); and #4—Internal Policy for Import/Export (6 month time-frame);
- (l) Compel the defendants to make a determination on OPA’s narrowing of its requests, and then make a timely determination of the narrowed requests, with respect to: request #7—Blue Fronted Amazon (8 month time-frame); #2—CITES I Consortiums (4 month time-frame); #3—Personal Pets (“years” time-frame); and #4—Internal Policy for Import/Export (6 month time-frame);
 - (m) Declare that the defendants have unlawfully and unreasonably delayed, and have unlawfully failed to adjudicate, the plaintiff’s above-mentioned FOIA requests, narrowing requests, and fee waiver requests;
 - (n) Order the defendants to immediately adjudicate the plaintiff’s above-mentioned FOIA requests, narrowing requests, and fee waiver requests;
 - (o) Retain jurisdiction over this case to ensure compliance with all of this Court’s orders;
 - (p) Award costs, and attorney’s fees under the 5 U.S.C. §552(a)(4)(E)(i), and on any other basis justified under law; and
 - (q) Grant any other, and further relief that the Court deems just and proper.

Dated: January 14, 2019

s/ Mark Andrew Prada
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